

Attorney Docket No. 4334

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Denny Jaeger

Group Art Unit: 2179

Serial No. 10/672,391

Confirmation No. 8531

Filed: September 26, 2003

Examiner: Tran, Mylinh T.

For: SYSTEM AND METHOD FOR RECORDING AND REPLAYING  
PROPERTY CHANGES ON GRAPHIC ELEMENTS IN A COMPUTER  
ENVIRONMENT

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Sir/Madam:

This brief is in furtherance of Applicant's Notice of Appeal filed on December 22, 2006, appealing the decision of the Examiner dated August 24, 2006 finally rejecting claims 1-28.

I. Real Party in Interest

The real party in interest in this appeal is NBOR Corporation, a California corporation, having a place of business at 6120 Valley View Road, Oakland, California 94611.

II. Related Appeals and Interferences

There are currently no related appeals or interference proceedings in progress that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the present Appeal.

III. Status of Claims

Claims 1-28 were originally filed with the application on September 26, 2003. In response to a Non-Final Office Action of January 30, 2006, claims 1, 12 and 23 have been amended.

Claims 1-28 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. US 2004/0111488 A1 ("Allan") in view of U.S. Patent Application Publication No. US 2002/0008721 A1 ("Fahraeus et al.").

This Appeal is made with regard to pending claims 1-28.

IV. Status of Amendments

No claims have been amended, canceled, or added for purposes of this Appeal.

V. Summary of Claimed Subject Matter

The claimed invention includes methods for recording and replaying property changes of graphic elements in a computer environment and a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform one of the methods. According to an embodiment of the invention, as recited in claim 1, a method for recording and replaying property changes of graphic elements in a computer environment comprises recording graphical and functional information of the graphic elements as properties of the graphic elements are changed (lines 9-17 in paragraph [0062] on page 9 of the specification). The graphical and functional information includes physical positional changes of the graphic elements, physical state changes of the graphic elements and actions caused by the graphic elements (lines 22-27 in paragraph [0063] of the specification; lines 29-31 in paragraph [0064] of the specification). The method further comprises replaying at least a portion of recorded changes pertaining to the properties of the graphic elements using the graphical and functional information (lines 9-17 in paragraph [0062] on page 9 of the specification; lines 22-27 in paragraph [0063] of the specification; lines 29-31 in paragraph [0064] of the specification).

According to another embodiment of the invention, as recited in claim 12, a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for recording and replaying property changes of graphic elements in a computer environment. The method comprises recording graphical and functional information of the graphic elements as properties of the graphic elements are changed (lines 9-17 in paragraph [0062] on page 9 of the specification). The graphical and functional information includes physical positional changes of the graphic elements, physical state changes of the graphic elements and actions caused by the graphic elements (lines 22-27 in paragraph [0063] of the specification; lines 29-31 in paragraph [0064] of the specification). The method further comprises replaying at least a portion of recorded

changes pertaining to the properties of the graphic elements using the graphical and functional information (lines 9-17 in paragraph [0062] on page 9 of the specification; lines 22-27 in paragraph [0063] of the specification; lines 29-31 in paragraph [0064] of the specification).

According to an embodiment of the invention, as recited in claim 23, a method for recording and replaying property changes of graphic elements in a computer environment comprises separately recording the property changes of each of the graphic elements with respect to time to form separate historical chains of property changes for the graphic elements (lines 24-27 in paragraph [0095] of the specification). The graphical and functional information includes physical positional changes of the graphic elements, physical state changes of the graphic elements and actions caused by the graphic elements (lines 22-27 in paragraph [0063] of the specification; lines 29-31 in paragraph [0064] of the specification). The method further comprises replaying the property changes of the graphic elements by manipulating the graphic elements using the separate historical chains of property changes (lines 24-27 in paragraph [0095] of the specification). The graphic elements that are manipulated are real operational graphic elements (lines 1-12 in paragraphs [0077]-[0079] on page 12 of the specification).

#### VI. Grounds of Rejection to be Reviewed on Appeal

Whether claims 1-28 are unpatentable under 35 U.S.C. 103(a) over Allan in view of Fahraeus et al.

#### VII. Argument

##### A. Rejection of Independent Claim 1 Under 35 U.S.C. §103(a)

In the Final Office Action of August 24, 2006, the Examiner has rejected the independent claim 1 under 35 U.S.C. §103(a) as allegedly being unpatentable over

Allan in view of Fahraeus et al. However, the Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for the independent claim 1.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In the case at hand, the cited references of Allan and Fahraeus et al. even when combined do not teach or suggest all of the limitations of claim 1. Furthermore, there is no valid suggestion or motivation to combine the teachings of Allan and Fahraeus et al., as asserted by the Examiner. Thus, the Examiner has failed to establish a *prima facie* case of obviousness for claim 1.

i. Cited references of Allan and Fahraeus et al. even when combined do not teach or suggest all of the limitations of claim 1

The cited references of Allan and Fahraeus et al. even when combined do not teach or suggest all of the limitations of claim 1. The independent claim 1 recites in part “*recording graphical and functional information of said graphic elements as properties of said graphic elements are changed, said graphical and functional information including physical positional changes of said graphic elements, physical state changes of said graphic elements and actions caused by said graphic elements.*” In the Final Office Action on page 3, the Examiner admits that the cited reference of Allan does not “teach said graphical and functional information including physical

positional changes of said graphic elements, physical state changes of said graphic elements and actions caused by said graphic elements.” The Examiner then alleges that the cited reference of Fahraeus et al. teaches “the features at the abstract, page 1, 0015 and page 2, 0028.” However, the cited reference of Fahraeus et al. in fact does not disclose the claimed features.

In the abstract and paragraphs [0015] and [0028] of the cited reference of Fahraeus et al., there is no mention of “*actions caused by said graphic elements*,” as recited in the independent claim 1. Thus, the cited reference of Fahraeus et al. does not teach the claimed limitation of “*said graphical and functional information including ...actions caused by said graphic elements*.” These passages of Fahraeus et al. do describe recording position information of a drawing device (1) that is moved relative to a base (3). The drawing device (1) is not a graphic element. Consequently, recording position information of the drawing device (1) is not equivalent to recording “*physical positional changes of said graphic elements*,” as recited in claim 1. Thus, the cited reference of Fahraeus et al. does not teach the claimed limitation of “*said graphical and functional information including ... physical positional changes of said graphic elements*.” Therefore, the cited references of Allan and Fahraeus et al. even when combined do not teach or suggest all of the limitations of claim 1.

ii. There is no valid suggestion or motivation to combine the teachings of Allan and Fahraeus et al.

There is no valid suggestion or motivation to combine the teachings of Allan and Fahraeus et al. to derive the claimed invention, as recited in claim 1. On page 3 of the Final Office Action, the Examiner alleges that “[i]t would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the Fahraeus’s teachings with Allan’s teachings” and that the motivation for combining

the teachings of Fahraeus et al. and Allan is “to keep user’s interactions in record for benefit later.”

However, there is no valid suggestion or motivation found in the cited references of Allan and Fahraeus et al. to make the combination asserted by the Examiner. The cited reference of Allan describes a method, system and apparatus, and computer program product for recordation and playback of transactions within a web browser or similar client application (See abstract and paragraph [0008] of Allan). In contrast, the cited reference of Fahraeus et al. describes a method and system for inputting or recoding position information of the drawing device (1) that is moved relative to the base (3). (See abstract and paragraph [0028] of Fahraeus et al.). The method, system and apparatus, and computer program product of Allan does not involve using any drawing device. Thus, one of ordinary skill in the art would not have been motivated to combine the teachings of Fahraeus et al., which are related to the drawing device (1), with the teachings of Allan, which are not related to any drawing device. Thus, there is no valid suggestion or motivation found in the cited references of Allan and Fahraeus et al. to make the combination asserted by the Examiner.

The only “motivation” for combining the teachings of Allan and Fahraeus et al. is the rationale set forth by the Examiner, which is not supported by the cited references. Furthermore, such a general statement of “to keep user’s interactions in record for benefit later” cannot be the basis for an assertion to combine the teachings of specific references. Therefore, the Examiner has failed to provide a valid suggestion or motivation to combine the teachings of Allan and Fahraeus et al. to establish a *prima facie* case of obviousness for claim 1.

B. Rejection of Independent Claims 12 and 23 Under 35 U.S.C. §103(a)

The independent claims 12 and 23 were also rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Allan in view of Fahraeus et al. However, the Examiner has also failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for the independent claim 12 and 23.

The independent claims 12 and 23 recite similar limitations as the independent claim 1, which were discussed above in Section A. Specifically, the independent claim 12 recites in part “*recording graphical and functional information of said graphic elements as properties of said graphic elements are changed, said graphical and functional information including physical positional changes of said graphic elements, physical state changes of said graphic elements and actions caused by said graphic elements.*” Similarly, the independent claim 23 recites in part “*separately recording said property changes of each of said graphic elements with respect to time to form separate historical chains of property changes for said graphic elements, said property changes including physical positional changes of said graphic elements, physical state changes of said graphic elements and actions caused by said graphic elements.*”

As explained above in Section A with respect to the independent claim 1, the cited references of Allan and Fahraeus et al. even when combined do not teach the limitations of “*said graphical and functional information including physical positional changes of said graphic elements, physical state changes of said graphic elements and actions caused by said graphic elements.*” Since the independent claims 12 and 23 recite similar limitations, the cited references of Allan and Fahraeus et al. even when combined do not teach all of the limitations of the independent claims 12 and 23. Furthermore, as explained above in Section A, the Examiner has failed to provide a valid suggestion or motivation to combine the teachings of Allan



and Fahraeus et al. Thus, the Examiner has also failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for the independent claim 12 and 23.

C. Rejection of Dependent Claims 2-11, 13-22 and 24-28 Under 35 U.S.C. §103(a)

The dependent claims 2-11, 13-22 and 24-28 were also rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Allan in view of Fahraeus et al. However, each of the dependent claims 2-11, 13-22 and 24-28 depends on one of the independent claims 1, 12 and 23. As such, these dependent claims include all the limitations of their respective base claims. Therefore, the Examiner has also failed to establish a *prima facie* case of obviousness for these dependent claims 2-11, 13-22 and 24-28 for at least the same reasons as their respective based claims.

As an example, the dependent claim 2 recites the limitations of “*wherein said recording includes extracting said graphical and functional information of said graphic elements from broadcast messages and saving said graphical and functional information as recording data.*” On page 3 of the Final Office Action, the Examiner states that “Allan also teaches the recording including extracting said graphical and functional information of said graphical and functional information of said graphic elements from broadcast messages and saving said graphical and *functional* information as recording data (page 3, 0034).” However, the paragraph [0034] on page 3 of Allan does not mention any “*broadcast messages,*” as recited in claim 2. Thus, the dependent claim 2 cannot be render obvious over Allan in view of Fahraeus et al.

As another example, the dependent claim 4 recites the limitations of “*wherein said broadcast messages include a message that contains sufficient information to recreate a particular graphic element of said graphic elements from scratch.*” On page 4 of the Final Office Action, the Examiner states that “Allan also shows the broadcast messages including a message that contains sufficient information to

recreate a particular graphic element of said graphic elements from scratch (page 3, 0034).” However, the paragraph [0034] on page 3 of Allan does not mention any “*broadcast messages*” or recreating “*a particular graphic element of said graphic elements from scratch*,” as recited in claim 4. Thus, the dependent claim 4 cannot be render obvious over Allan in view of Fahraeus et al.

As another example, the dependent claim 6 recites the limitations of “*wherein said replaying includes processing said recording data using predefined time intervals to effectuate said property changes of said graphic elements for replay*.” On page 4 of the Final Office Action, the Examiner states that “Allan also discloses the replaying including processing said recoding data using predefined time intervals to effectuate said property changes of said graphic elements for replay (page 5, 0059-0060).” However, the paragraphs [0059] and [0060] on page 5 of Allan describe a recordation process, not a replaying process. Thus, the dependent claim 6 cannot be render obvious over Allan in view of Fahraeus et al.

As another example, the dependent claim 7 recites the limitations of “*wherein said replaying further includes generating an update message that combines some of said property changes for a particular graphic element in response to a user input changing a current replay time to a different replay time*.” On page 6 of the Final Office Action, the Examiner states that “[o]fficial notice is taken that the replaying including generating an update message was well known.” Even if the asserted official notice is proper, the claimed limitations are not disclosed by combining the alleged official notice with the teachings of Allan. Specifically, neither the alleged official notice nor the cited reference of Allan teaches “*an update message that combines some of said property changes for a particular graphic element in response to a user input changing a current replay time to a different replay time*,” as recited in claim 7. Thus, the dependent claim 7 cannot be render obvious over Allan in view of Fahraeus et al.

As another example, the dependent claim 11 recites in part the limitations of “*resetting said computer environment to a recorded state at a particular time using said graphical and functional information of said graphic elements.*” On page 6 of the Final Office Action, the Examiner states that “[o]fficial notice is taken that the step of resetting was well known.” Even if the asserted official notice is proper, the claimed limitations are not disclosed by combining the alleged official notice with the teachings of Allan. Specifically, neither the alleged official notice nor the cited reference of Allan teaches “*resetting said computer environment to a recorded state at a particular time using said graphical and functional information of said graphic elements*” (emphasis added), as recited in claim 11. Thus, the dependent claim 11 cannot be render obvious over Allan in view of Fahraeus et al.

## SUMMARY

The Examiner has failed to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for claims 1-28. The Examiner has not provided a valid suggestion or motivation to combine the teachings of Allan in view of Fahraeus et al. Furthermore, the cited references of Allan in view of Fahraeus et al. even when combined do not teach or suggest all of the limitations of claims 1-28. Therefore, claims 1-28 cannot be rendered obvious over Allan in view of Fahraeus et al.

For all the foregoing reasons, it is earnestly and respectfully requested that the Board of Patent Appeals and Interferences reverse the rejections of the Examiner regarding claims 1-28, so that this case may be allowed and pass to issue in a timely manner.

Respectfully submitted,

Denny Jaeger

Date: February 22, 2007

By: Thomas H. Ham  
Thomas H. Ham  
Registration No. 43,654  
Telephone: (925) 249-1300

## VIII. Claims Appendix

1     1.     A method for recording and replaying property changes of graphic elements in  
2     a computer environment comprising:  
3             recording graphical and functional information of said graphic  
4     elements as properties of said graphic elements are changed, said graphical and  
5     functional information including physical positional changes of said graphic  
6     elements, physical state changes of said graphic elements and actions caused by said  
7     graphic elements; and  
8             replaying at least a portion of recorded changes pertaining to said  
9     properties of said graphic elements using said graphical and functional information.

1     2.     The method of claim 1 wherein said recording includes extracting said  
2     graphical and functional information of said graphic elements from broadcast  
3     messages and saving said graphical and functional information as recording data.

1     3.     The method of claim 2 wherein said graphical and functional information  
2     corresponds to said property changes as results of user interactions on said graphic  
3     elements.

1     4.     The method of claim 2 wherein said broadcast messages include a message  
2     that contains sufficient information to recreate a particular graphic element of said  
3     graphic elements from scratch.

1     5.     The method of claim 4 wherein said message contains property values of said  
2     particular graphic element, said property values including at least one of color value,  
3     control value and positional value.

1     6.     The method of claim 2 wherein said replaying includes processing said  
2     recording data using predefined time intervals to effectuate said property changes of  
3     said graphic elements for replay.

1     7.     The method of claim 6 wherein said replaying further includes generating an  
2     update message that combines some of said property changes for a particular graphic  
3     element in response to a user input changing a current replay time to a different  
4     replay time.

1     8.     The method of claim 1 wherein said replaying includes manipulating real  
2     operational graphic elements.

1     9.     The method of claim 1 wherein said recording includes separately recording  
2     said graphical and functional information for each of said graphic elements as  
3     recording data that can be used to form unique data streams corresponding to  
4     different histories of property changes for said graphic elements.

1     10.     The method of claim 9 wherein said replaying includes processing said  
2     recording data to run said unique data streams in parallel to replay said property  
3     changes of said graphic elements.

1     11.     The method of claim 1 wherein said replaying comprises:  
2                 temporarily disabling a screen updating process;  
3                 resetting said computer environment to a recorded state at a particular  
4     time using said graphical and functional information of said graphic elements; and  
5                 enabling said screen updating process to display said recorded state of  
6     said computer environment.

1     12.     A program storage device readable by a machine, tangibly embodying a  
2     program of instructions executable by said machine to perform a method for  
3     recording and replaying property changes of graphic elements in a computer  
4     environment, said method comprising:  
5                 recording graphical and functional information of said graphic  
6     elements as properties of said graphic elements are changed, said graphical and  
7     functional information including physical positional changes of said graphic  
8     elements, physical state changes of said graphic elements and actions caused by said  
9     graphic elements; and  
10                replaying at least a portion of recorded changes pertaining to said  
11     properties of said graphic elements using said graphical and functional information.

1 13. The program storage device of claim 12 wherein said recording includes  
2 extracting said graphical and functional information of said graphic elements from  
3 broadcast messages and saving said graphical and functional information as recording  
4 data.

1 14. The program storage device of claim 13 wherein said graphical and functional  
2 information corresponds to said property changes as results of user interactions on  
3 said graphic elements.

1 15. The program storage device of claim 13 wherein said broadcast messages  
2 include a message that contains sufficient information to recreate a particular graphic  
3 element of said graphic elements from scratch.

1 16. The program storage device of claim 15 wherein said message contains  
2 property values of said particular graphic element, said property values including at  
3 least one of color value, control value and positional value.

1 17. The program storage device of claim 13 wherein said replaying includes  
2 processing said recording data using predefined time intervals to effectuate said  
3 property changes of said graphic elements for replay.

1 18. The program storage device of claim 17 wherein said replaying further  
2 includes generating an update message that combines some of said property changes



3 for a particular graphic element in response to a user input changing a current replay  
4 time to a different replay time.

1 19. The program storage device of claim 12 wherein said replaying includes  
2 manipulating real operational graphic elements.

1 20. The program storage device of claim 12 wherein said recording includes  
2 separately recording said graphical and functional information for each of said  
3 graphic elements as recording data that can be used to form unique data streams  
4 corresponding to different histories of said property changes for said graphic  
5 elements.

1 21. The program storage device of claim 20 wherein said replaying includes  
2 processing said recording data to run said unique data streams in parallel to replay  
3 said property changes of said graphic elements.

1 22. The program storage device of claim 12 wherein said replaying comprises:  
2 temporarily disabling a screen updating process;  
3 resetting said computer environment to a recorded state at a particular  
4 time using said graphical and functional information of said graphic elements; and  
5 enabling said screen updating process to display said recorded state of  
6 said computer environment.

1 23. A method for recording and replaying property changes of graphic elements in  
2 a computer environment comprising:

3 separately recording said property changes of each of said graphic  
4 elements with respect to time to form separate historical chains of property changes  
5 for said graphic elements, said property changes including physical positional  
6 changes of said graphic elements, physical state changes of said graphic elements and  
7 actions caused by said graphic elements; and

8 replaying said property changes of said graphic elements by  
9 manipulating said graphic elements using said separate historical chains of property  
10 changes, said graphic elements that are manipulated being real operational graphic  
11 elements.

1 24. The method of claim 23 wherein said separately recording includes extracting  
2 property change information of said graphic elements from broadcast messages and  
3 saving said property change information as recording data.

1 25. The method of claim 24 wherein said replaying includes processing said  
2 recording data using predefined time intervals to effectuate said property changes of  
3 said graphic elements for replay.

1 26. The method of claim 25 wherein said replaying further includes generating an  
2 update message that combines some of said property changes stored in said recording

3 data in response to a user input changing a current replay time to a different replay  
4 time.

1 27. The method of claim 23 wherein said replaying includes processing unique  
2 data streams in parallel to replay said property changes of said graphic elements, said  
3 unique data streams corresponding to said separate historical chains of property  
4 changes.

1 28. The method of claim 23 wherein said replaying comprises:  
2 temporarily disabling a screen updating process;  
3 resetting said computer environment to a recorded state at a particular  
4 time using recorded property changes of said graphic elements; and  
5 enabling said screen updating process to display said recorded state of  
6 said computer environment.

**IX. Evidence Appendix**

NONE

**X. Related Proceedings Appendix**

NONE